

JEAN SZCZEPANSKI

IBLA 82-119

Decided December 22, 1981

Appeal from decision of the Eastern States Office, Bureau of Land Management, declaring that oil and gas lease ES 20114 had terminated by operation of law for failure to pay annual rental and denying petition for reinstatement.

Affirmed.

1. Oil and Gas Leases: Reinstatement -- Oil and Gas Leases: Rentals -- Oil and Gas Leases: Termination

An oil and gas lease on which there is no well capable of producing oil or gas in paying quantities automatically terminates by operation of law if the lessee fails to pay the annual rental on or before the anniversary date of the lease. 30 U.S.C. § 188(b) (1976). Under 30 U.S.C. § 188(c) (1976), the Department of the Interior has no authority to reinstate a terminated oil and gas lease where the rental payment is not tendered at the proper office within 20 days after the due date.

2. Oil and Gas Leases: Termination

Reliance upon receiving a courtesy billing notice before the due date can neither prevent the lease from terminating by operation of law nor serve to justify a failure to pay the full lease rental in a timely manner.

APPEARANCES: Jean Szczepanski, pro se.

## OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Jean Szczepanski has appealed the decision of the Eastern States Office, Bureau of Land Management (BLM), dated September 10, 1981, denying her petition for reinstatement of oil and gas lease ES 20114.

Oil and gas lease ES 20114 was issued on February 1, 1980, for a term of 10 years. An annual rental of \$40 was due on the anniversary date, February 1, 1981. On April 8, 1981, BLM received appellant's check for the required rental and a letter acknowledging that the payment was late and asking for reinstatement of the lease because she had not received a billing notice for the rental from BLM. BLM held that a lease may be reinstated upon a showing of due diligence if the rental was received within 20 days of the anniversary date, but that appellant's rental was not received until 66 days after the due date and that therefore BLM had no authority to reinstate the lease.

In her statement of reasons, appellant states that maintaining her rights to this lease has been very costly to her as she had to challenge Geological Survey's finding, before the lease issued, that the lands involved were in an undefined known geologic structure. See Jean Szczepanski, 44 IBLA 206 (1979). She argues that because of this controversy some BLM employee must have failed to note the lease in BLM's system of lease rental notification and she did not receive a lease rental notice for the lease. She explains that she and her husband have been holding oil and gas leases for about 15 years, that this is the first time they did not receive notice, and that they rely on the notices to make their rental payments.

[1] Section 31 of the Mineral Leasing Act, as amended, 30 U.S.C. § 188(b) (1976), provides that upon failure of a lessee to pay rental on or before the anniversary date of a lease on which there is no well capable of production of oil or gas in paying quantities, the lease terminates automatically by operation of law. This Department has no authority under the Mineral Leasing Act to reinstate an oil and gas lease that has terminated by operation of law unless payment of the required amount is received within 20 days after the date of termination. 30 U.S.C. § 188(c) (1976). Since BLM did not receive appellant's rental until 66 days after the anniversary date, BLM has no authority to reinstate the terminated lease. Jack J. Grynberg, 53 IBLA 165 (1981); James Valjalo, 50 IBLA 256 (1980).

[2] Appellant's reliance on receiving a courtesy billing notice from BLM before the due date is without legal basis. The fact that appellant did not receive a courtesy notice can neither prevent the lease from terminating nor justify a failure to pay the lease rental timely. Otis Energy, Inc., 52 IBLA 316 (1981); Richard C. Corbyn, 32 IBLA 296 (1977). This Department is under no obligation to provide such notices and they are in no sense "bills" in the common use of that word. Louis J. Patla, 10 IBLA 127 (1973).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Eastern States Office is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

C. Randall Grant, Jr.  
Administrative Judge

60 IBLA 377

